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TAGS: [KTIA](#) [EAIR](#) [PREL](#) [UP](#)
SUBJECT: CIVAIR: DELTA AIR LINES REQUEST FOR AUTHORITY

REF: A. SECSTATE 54404
[1](#)B. UKRAINIAN SAA LETTER DATED 5/22/2009

[1](#)1. (SBU) Post delivered the ref A demarche on May 28 to Sergiy Korshuk, Director of the Department for Air Transportation and Licensing at the State Aviation Administration (SAA) of Ukraine. SAA Chairman Oleksander Davydov and his deputy Dmytro Babeichuk were unavailable to meet. Jeff Morgan, Director of International and Regulatory Affairs at Delta Airlines, accompanied Post to the meeting.

[1](#)2. (SBU) In his reply, Korshuk repeated the arguments made by Davydov in ref B: Ukraine's FAA Category II status was preventing Aerosvit Airlines from expanding its existing five flights a week to the U.S. Korshuk said Aerosvit asked the USG to increase its frequency to six flights a week but was refused. Ukraine would grant Delta five flights in the summer season scheduled to begin June 1, but not more in order to guarantee "fair and equal opportunities" between U.S. and Ukrainian airlines in accordance with Article 11 of the bilateral air transport agreement. Korshuk conceded that "contradictions might exist" between the provisions of Article 11 and those of Article 4, which permits the sides to restrict traffic based on security concerns, and Article 3, which compels the sides to grant airlines permission to operate on their territory as long as they continue to meet the conditions set forth in the agreement. Ukraine was interested in holding consultations with the USG to discuss Aerosvit's and Delta's market access "within the overall context of our bilateral relationship" in civil aviation as soon as possible. The consultations should also include a discussion on Ukraine's Category II status. The GOU was waiting for a response from the USG on its request for consultations and was concerned that none had been forthcoming to date.

[1](#)3. (SBU) Korshuk's reply indicated that he did not fully understand the reasons why Ukraine's Category II status was preventing Aerosvit from increasing its flights to the U.S. He emphasized Aerosvit's safety record repeatedly, and said that the GOU understood that last year's ICAO audit of Ukraine "was not bad," but admitted that he had not seen the ICAO report. Post drew on past language from the Department and FAA to explain USG views on the country's Category II status.

[1](#)4. (SBU) Delta's Morgan outlined the problems faced by the airline should it not receive permission to operate six flights weekly as of June 1. Morgan said Delta could not wait until the two governments discussed the issue within the framework of formal consultations, and was prepared to compromise in the meantime. Morgan said Delta still wanted permission for six weekly flights for the entire summer season, but would accept temporary permission to operate the six weekly flights for 90 days in order to give the two governments time to conduct consultations. In any case Delta needed a definitive answer from the SAA by COB on May 29. Korshuk said the SAA would discuss the issue internally and

resond back to Delta through Post on May 29.

15. (SBU) We subsequently asked Morgan to leave the room and delivered, per ref A instructions, the additional talking points that the USG could review options that might impact Ukrainian carrier service to the U.S. should the GOU fail to approve Delta's application in a manner that did not disrupt the airline's operations. We reiterated the USG willingness to receive a GOU delegation for consultations, and said we would encourage Washington to respond formally to the GOU request for a meeting in a timely manner. Korshuk said he understood the USG message and would share it with SAA Chairman Davydov.
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